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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,474	05/25/2005	Akira Ishibashi	114208-048	5171
43793	7590	11/29/2007	EXAMINER	
EVEREST INTELLECTUAL PROPERTY LAW GROUP			RODRIGUEZ, RUTH C	
P. O. BOX 708			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/536,474	ISHIBASHI ET AL.
	Examiner Ruth C. Rodriguez	Art Unit 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 August 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-17 and 19-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 13-15,20-23 and 25 is/are rejected.  
 7) Claim(s) 16,17,19 and 24 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-17 and 19-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 13 and 15 recite "a ratio (A/B) of an area A of a range in which sound spectrum of a peeling off sound Fournier-transformed in a range of 100 Hz to 15000 Hz is 100 Hz to 3000 Hz to an area B of a range in which sound spectrum of a peeling-off sound Fournier-transformed in a range of 100 Hz to 15000 Hz is 3000 Hz to 15000 Hz is 0.4" It is unclear whether the term "(A/B)" is being claimed or not since the term is enclosed in brackets. Additionally, it is unclear whether the area A and area B refer to different areas provided in a single surface fastener or whether the areas refer to two different fasteners being compared to each other. The specifications seem to disclose that the peeling-off sound Fournier-transformed is determined for an area A of a fastener and then the fastener is modified to diminish the peeling-off sound Fournier-transformed and this modified fastener is used to determine the peeling-off sound Fournier-transformed is determined for an area B in order to obtain the ratio. The claim should specify the differences between the area A and the area B. Finally, the claim

does not include any details of the surface fastener and whether the surface fastener engages the same complementary member when determining the different peeling-off sound Fournier-transformed is determined for the two areas. The claim should include details of the member being combined with the fastener when the peeling-off sound Fournier-transformed is determined for the different areas.

4. Claim 14 recites "sound spectrum of a peeling-off sound Fournier-transformed in a range of 100 Hz to 15000 Hz is a frequency lower than 3000 Hz. This claim does not include any details of the surface fastener and what is the complementary member that is being engaged by the surface fastener when determining the peeling-off sound Fournier-transformed is determined for the two areas. The claim should include details of the surface fastener and the complementary member that is being used to determine the peeling-off sound Fournier-transformed having a frequency lower than 3000 Hz.

5. Claims 16, 17, and 19-25 are considered indefinite since they depend upon indefinite claims 13-15.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13-15, 20-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirlock et al. (US 4,776,068) and Japanese Patent Document JP 2-226023 A (JP '023).

Smirlock discloses a fiber-made surface fastener (12) comprising joining faces in which a plurality of fiber-made engaging elements (14) is provided on one surface of each flat base fabric (Fig. 3) and another fiber-made surface fastener (12') comprising joining faces in which a plurality of fiber-made engaging elements (14) is provided on one surface of the each flat base fabric (Figs. 7-12). A joining face of at least one surface fastener member is composed of a plurality of fiber-made engaging elements distributed uniformly on an entire surface (Figs. 9 and 12). Smirlock fails to disclose that a ratio (A/B) of an area A of a range in which sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is 100 Hz to 3000 Hz to an area B of a range in which sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is 3000 Hz to 15000 Hz is 0.4 or more and that the apparent density of a base fabric of each of fiber-made surface fastener members which engage each other is 0.5 g/cm<sup>3</sup> or less. However, JP '023 (as described in the claims) teach observation of acoustic spectra on which Fourier transform has been performed as a method for measuring noise. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to be able to observe acoustic spectra on which Fourier transform has been performed as a method for measuring noise measure as taught by JP '023 is used with the fasteners of Smirlock and a ratio (A/B) of an area A of a range in which sound spectrum of a peeling-off sound

Fourier-transformed in a range of 100 Hz to 15000 Hz is 100 Hz to 3000 Hz (for the embodiment of Figures 7-12) to an area B of a range in which sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is 3000 Hz to 15000 Hz (for the embodiment of Figure 3) is 0.4 or more since Smirlock teaches a surface fastener that decreases the amount of noise produced by peeling off the surface fastener. Regarding to the density, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an apparent density of a base fabric of each of fiber-made surface fastener members which engage each other is 0.5 g/cm<sup>3</sup> or less since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art especially in view of the disclosure of Smirlock that is directed to reduce the noise generated when peeling off a surface fastener. *In re Aller*, 105 USPQ 233.

Smirlock also discloses that the surface fastener further comprises gap forming means for forming a gap between a rear face of a base fabric from which engaging elements of the surface fastener is raised and an attachment object (Figs. 7-12).

Smirlock fails to disclose that:

- A maximum component of sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is a frequency lower than 3000 Hz.
- A ratio (A/B) of an area A of a range in which sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is 100 Hz to 3000 Hz to an area B of a range in which sound spectrum of a peeling-off sound

Fourier-transformed in a range of 100 Hz to 15000 Hz is 3000 Hz to 15000 Hz is 0.4 or more and a maximum component of sound spectrum of a peeling-off sound Fourier-transformed in a range of 100 Hz to 15000 Hz is a frequency lower than 3000 Hz.

- The ratio (A/B) of the area A of the range in which the sound spectrum of the peeling-off sound of the surface fastener Fourier-transformed in the range of 100 Hz to 15000 Hz is 100 Hz to 3000 Hz to the area B of the range in which the sound spectrum of the peeling-off sound of the surface fastener Fourier-transformed in the range of 100 Hz to 15000 Hz is 3000 Hz to 15000 Hz is 0.4 or more.

However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the disclosed range or ratios since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art especially in view of the disclosure of Smirlock that is directed to reduce the noise generated when peeling off a surface fastener in view of the teaching provided by JP '023 that serve to measure the noise. *In re Aller*, 105 USPQ 233.

#### ***Allowable Subject Matter***

8. Claims 16, 17, 19 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 13-15, 20-23 and 25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

/James R. Brittain/  
Primary Examiner  
Art Unit 3677

rcr  
November 26, 2007